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*Attorneys for Defendant*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

ZIMMERMAN AG & CATTLE  
COMPANY, LLC, and RANDY  
NUNN,

Plaintiffs,

vs.

NAU COUNTRY INSURANCE  
COMPANY,

Defendant.

Civil Action No.

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant NAU Country Insurance Company (“NAU”) files this Notice of Removal, removing the above-captioned case from the Tenth Judicial District, Petroleum County, State of Montana, to the United States District Court for the District of Montana. This matter is removable to this Court on the basis of federal diversity jurisdiction because this is a case between Montana Plaintiffs and a Minnesota Defendant, involving claims for an unspecified amount but including claims for punitive

damages believed to exceed \$75,000.00 in total, and it is timely removed by Defendant NAU.

**Statement of Removal**

1. Plaintiffs commenced the above-captioned action in Tenth Judicial District Court, County of Petroleum, Montana, by filing a Complaint. The Complaint was filed on December 5, 2017 as Cause No. DV 2017-12. NAU was served with the Complaint via Commissioner of Securities & Insurance on December 13, 2017 and via CT Corporation on December 18, 2017.

2. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the Summons and Complaint are attached and incorporated by reference as Exhibit A. No proceedings have occurred in state court, and no other pleadings, process, or orders have been served upon NAU. Pursuant to 28 U.S.C. § 1441 (a), removal of an action originally filed in state court is proper in "any civil action brought in a State court of which the district courts of the United States have original jurisdiction."

3. Further, 28 U.S.C. § 1332(a) provides that "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interests and costs, and is between ... citizens of different states."

4. As set forth below, because this case involves a claim exceeding the sum of \$75,000.00 upon information and belief, exclusive of interests and costs, and because the case arises between citizens of different states, it lies within the original subject matter jurisdiction of this Court, pursuant to 28 U.S.C. § 1332(a). In removing this matter to this Court, NAU does not intend to waive any defenses to the action, including, but not limited to, improper service, personal jurisdiction, and/or improper venue.

**Diversity of Citizenship of the Parties and Consent to Removal**

5. There is complete diversity of citizenship between Plaintiffs and Defendant.

6. According to ¶¶1-2 of the Complaint, Plaintiffs are residents and citizens of Montana.

7. NAU is a Minnesota corporation with its principal place of business in Ramsey, Minnesota, contrary to allegations contained in ¶3 of Plaintiffs' Complaint. NAU is therefore is a resident and citizen of Minnesota.

8. The Defendant has diverse citizenship from all Plaintiffs and no Defendant is a resident of Montana.

**Amount in Controversy**

9. The Complaint seeks damages in an unspecified amount for breach of contract and unfair trade practices, along with punitive damages and attorney's fees, all in an undefined amounts.

10. From the allegations in the Complaint, the amount in controversy exceeds the threshold of \$75,000.00.

**Removal Procedure**

11. Removal of the above-captioned matter is timely under 28 U.S.C. § 1446(b) and Federal Rule of Civil Procedure 6(a) because this Notice of Removal is filed within 30 days of service of the Complaint by NAU. See ¶1, above.

12. Removal is properly made to the United States District Court for the District of Montana, under 28 U.S.C. § 1441 (a), because Petroleum County, where this action would be pending, is within the District of Montana. See 28 U.S.C. § 106.24. The Defendants will file written notice of the filing of this Notice of Removal with the Clerk of the District Court of the Tenth Judicial District, Petroleum County, Montana, Cause No. DV 2017-12, concurrently with the filing of this Notice of Removal and will serve the same on Plaintiffs pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, by this Notice of Removal, Defendant NAU Country Insurance Company hereby removes this action from the District Court of the

Tenth Judicial District, Petroleum County, Montana and requests that this action proceed as properly removed to this Court.

Dated this 12<sup>th</sup> day of January, 2018.

CROWLEY FLECK, PLLP

/s/ Paul C. Collins

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served upon all counsel of record on this 12<sup>th</sup> day of January, 2018, by depositing a copy of the same in an official depository of the U.S. Mail in a postage-paid envelope addressed as follows:

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